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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/549,323 | 09/26/2005 | Frank Striggow | LNK-007 | 8223 |

31496 7590 01/30/2007

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| EXAMINER | |
|---|---|
| CLARK, AMY LYNN | |
| ART UNIT | PAPER NUMBER |
| 1655 | |

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|---|---|---|
| 31 DAYS | 01/30/2007 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/549,323 | STRIGGOW ET AL. | |
| | Examiner | Art Unit | |
| | Amy L. Clark | 1655 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *16 September 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-19* are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Election/Restrictions*

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 1-6, 16 and 17 drawn to a method of treating and/or preventing a cranial/brain trauma and/or cerebral ischemia comprising the step of administering to a subject in need thereof a medicament comprising an active ingredient selected from the group consisting of: frankincense, frankincense extracts, substances contained in frankincense, their physiologically acceptable salts, their derivatives, physiologically acceptable salts thereof of said derivatives, pure boswellic acid, a physiologically acceptable salt of boswellic acid, a derivative of boswellic acid, a salt of a boswellic acid derivative, and a boswellic acid-containing vegetable preparation.

Group II, claims 7-15, 18 and 19, drawn to a method of treating and/or preventing a cranial/brain trauma, cerebral ischemia and/or Alzheimer's disease comprising the step of administering to a subject in need thereof a medicament comprising an active ingredient selected from the group consisting of: hydrogenation products of frankincense extracts, substances contained in frankincense, their physiologically acceptable salts, their derivatives, the physiologically acceptable salts of said derivatives, pure boswellic acid, a physiologically acceptable salt, of boswellic acid, a derivative of boswellic acid, a salt of a boswellic acid derivative, and a boswellic acid-containing vegetable preparation.

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Claim 7, at least, is anticipated by or obvious over Etzel (A, US 5,720,975). Etzel teaches a method of treating Alzheimer's disease comprising administering to a patient in need an effective dosage of a medicament comprising at boswellic acid (See Claim 1). Consequently, the special technical feature which links the claims does not provide a contribution over the prior art, so unity of the invention is lacking

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Group I:

Specie A:

(i) Elect one or more of the following: treat or prevent cranial trauma, brain trauma, or cerebral ischemia from Claim 1.

-If cerebral ischemia is elected, further elect apoplexy, cardiac infarction or an operation from claim 2.

(ii) Elect one active ingredient from claim 1.

-Further elect one active ingredient from 3, 4, 5 or 6.

(iii) Elect one form of medicament from claim 16.

-Further elect either tablet or solution from claim 17.

Group II:

Specie A:

(i) Elect one or more of the following: treat or prevent cranial trauma, brain trauma, cerebral ischemia, or Alzheimer's disease from Claim 7.

(ii) Elect one active ingredient from claim 7.

-Further elect one active ingredient from claim 9, 11, 12, 13, 14 or 15.

(iii) Elect one form of medicament from claim 18.

-Further elect either tablet or solution from claim 19.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

Group I:

Specie A:

(i) If cerebral ischemia is elected, claims 1-6, 16 and 17. If any other disease is elected, claims 1, 3-6, 16 and 17.

(ii) The active ingredient from claim 1 is drawn to claims 1-6, 16 and 17, if cerebral ischemia is elected. If any other disease is elected, claims 1, 3-6, 16 and 17.

-If an active ingredient is elected from claim 3, claims 3, 16 and 17.

-If an active ingredient is elected from claim 4, claims 4, 16 and 17.

-If an active ingredient is elected from claim 5, claims 5, 16 and 17.

-If an active ingredient is elected from claim 6, claims 6, 16 and 17.

(iii) Claims 16 and 17.

Group II:

Specie A:

(i) If Alzheimer's is elected, claims 7-15, 18 and 19. If any other disease is elected, claims 7, 9-15, 18 and 19.

(ii) The active ingredient from claim 7 is drawn to claims claims 7-15, 18 and 19, Alzheimer's is elected. If any other disease is elected, claims 7, 9-15, 18 and 19.

-If an active ingredient is elected from claim 9, claims 9, 18 and 19.

-If an active ingredient is elected from claim 10, claims 10, 18 and 19.

-If an active ingredient is elected from claim 11, claims 11, 18 and 19.

-If an active ingredient is elected from claim 12, claims 12, 18 and 19.

-If an active ingredient is elected from claim 13, claims 13, 18 and 19.

-If an active ingredient is elected from claim 14, claims 14, 18 and 19.

-If an active ingredient is elected from claim 15, claims 15, 18 and 19.

(iii) Claims 18 and 19.

The following claim(s) are generic: 1 and 7.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

There is no common structural element shared by all the alternatives.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy L. Clark whose telephone number is (571) 272-1310. The examiner can normally be reached on 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on (571) 272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Amy L. Clark
AU 1655

Amy L. Clark
January 11, 2007

MICHELE FLOOD
PRIMARY EXAMINER